

EXHIBIT 3
FILED UNDER SEAL

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Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES,) 1:23-cv-00108-LMB-JFA
et al.,)
)
Plaintiffs,)
)
vs.)
)
GOOGLE LLC,)
)
Defendants.)
_____)

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VIDEOTAPED DEPOSITION OF
CHRISTOPHER KARPENKO
August 10, 2023
9:35 a.m.

Reported by: Bonnie L. Russo
Job No. 6031969

Veritext Legal Solutions

800-567-8658

973-410-4098

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<p style="text-align: right;">Page 2</p> <p>1 Videotaped Deposition of Christopher Karpenko</p> <p>2 held at:</p> <p>3</p> <p>4</p> <p>5</p> <p>6 Paul, Weiss, Rifkind, Wharton & Garrison, LLP</p> <p>7 2001 K Street, N.W.</p> <p>8 Washington, D.C.</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 Pursuant to Notice, when were present on behalf</p> <p>19 of the respective parties:</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES (CONTINUED):</p> <p>2</p> <p>3</p> <p>4 Also Present:</p> <p>5 Glen Fortner, Videographer</p> <p>6 Michael Weaver, United States Postal Service</p> <p>7</p> <p>8</p> <p>9 Also Present Via Remotely:</p> <p>10 Julia Wood, DOJ</p> <p>11 Sean Carman, DOJ</p> <p>12 Katherine Clemens, DOJ</p> <p>13 Jeannie S. Rhee, Paul, Weiss, Rifkind, Wharton</p> <p>14 & Garrison, LLP</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 On behalf of the Plaintiffs:</p> <p>4 JAMES RYAN, ESQUIRE</p> <p>5 DAVID GROSSMAN, ESQUIRE</p> <p>6 ALVIN CHU, ESQUIRE</p> <p>7 UNITED STATES DEPARTMENT OF JUSTICE</p> <p>8 450 5th Street, N.W.</p> <p>9 Washington, D.C. 20530</p> <p>10 james.a.ryan@usdoj.gov</p> <p>11 david.grossman@usdoj.gov</p> <p>12 alvin.chu@usdoj.gov</p> <p>13</p> <p>14 On behalf of the Defendant:</p> <p>15 MARTHA L. GOODMAN, ESQUIRE</p> <p>16 ANNE LISE CORRIVEAU, ESQUIRE</p> <p>17 PAUL, WEISS, RIFKIND, WHARTON &</p> <p>18 GARRISON, LLP</p> <p>19 2001 K Street, N.W.</p> <p>20 Washington, D.C. 20006</p> <p>21 mgoodman@paulweiss.com</p> <p>22 acorriveau@paulweiss.com</p>	<p style="text-align: right;">Page 5</p> <p>1 I N D E X</p> <p>2 EXAMINATION OF CHRISTOPHER KARPENKO PAGE</p> <p>3 BY MS. GOODMAN 11</p> <p>4</p> <p>5</p> <p>6</p> <p>7 EXHIBITS</p> <p>8 Exhibit 33 E-Mail Chain dated 1-9-23 53</p> <p>9 USPS-ADS-0000140586-588</p> <p>10</p> <p>11 Exhibit 34 (CLAWED BACK) --</p> <p>12</p> <p>13 Exhibit 34A E-Mail Chain dated 1-11-23 125</p> <p>14 USPS-ADS-0000043815-816</p> <p>15</p> <p>16 Exhibit 35 Text Messages 93</p> <p>17 USPS-ADS-0000899149-151</p> <p>18</p> <p>19 Exhibit 36 (CLAWED BACK) --</p> <p>20</p> <p>21 Exhibit 36A E-Mail Chain dated 1-11-23 135</p> <p>22 USPS-ADS-0000041965</p>

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2	Exhibit 36B Attachment to Exhibit 36A	315	2	Exhibit 48 E-Mail dated 6-23-20	287
3			3	USPS-ADS-0000447582-583	
4	Exhibit 37 E-Mail Chain dated 3-8-23	135	4		
5	USPS-ADS-0000040943		5	Exhibit 49 E-Mail dated 6-15-20	293
6			6	Attachment	
7	Exhibit 38 NIC+ZOE August 2023	168	7	USPS-ADS-000227880-968	
8	Advertisement		8		
9			9	Exhibit 50 Order/Solicitation/	299
10	Exhibit 39 The U.S. Postal Service	175	10	Offer/Award	
11	Five-Year Strategic Plan		11	12-30-21	
12	FY2020-FY2024		12	USPS-ADS-0000529112-186	
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14	Exhibit 40 E-Mail Chain dated 3-29-22	199	14	Exhibit 51 Order/Solicitation/	301
15	Attachment		15	Offer/Award	
16	USPS-ADS-0000592851-863		16	USPS-ADS-0000529380-412	
17			17		
18	Exhibit 41 Meeting Invite dated 4-30-20	211	18		
19	Attachment		19		
20	USPS-ADS-0000661829-869		20		
21			21		
22			22	(Exhibits bound separately.)	
Page 7			Page 9		
1	EXHIBITS (CONTINUED):		1	PROCEEDINGS	
2	Exhibit 42 E-Mail Chain dated 6-18-21	227	2	(9:36 a.m.)	
3	USPS-ADS-0000713476-481		3		
4			4	THE VIDEOGRAPHER: Good morning.	
5	Exhibit 43 E-Mail dated 4-20-20	238	5	We are going on the record at	
6	Attachment		6	on August 10, 2023.	
7	USPS-ADS-0000492772-780		7	Please note that the microphones are	
8			8	sensitive and may pick up whispering and	
9	Exhibit 44 E-Mail Chain dated 2-14-23	245	9	private conversations. Please mute your phones	
10	Attachment		10	at this time. Audio and video recording will	
11	USPS-ADS-0000042055-181		11	continue to take place unless all parties agree	
12			12	to go off the record.	
13	Exhibit 45 E-Mail Chain dated 4-26-22	262	13	This is Media Unit 1 of the	
14	Attachment		14	video-recorded deposition of Christopher	
15	USPS-ADS-0000016395-463		15	Karpenko in the matter of United States, et	
16			16	al., v. Google LLC. The location of the	
17	Exhibit 46 E-Mail Chain dated 9-14-22	280	17	deposition is Paul Weiss.	
18	USPS-ADS-0000620144-145		18	My name is Glen Fortner representing	
19			19	Veritext, and I am the videographer. The court	
20	Exhibit 47 E-Mail Chain dated 11-16-21	281	20	reporter is Bonnie Russo from the firm	
21	USPS-ADS-0000029221-226		21	Veritext. I am not related to any party in	
22			22	this action, nor am I financially interested in	

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<p style="text-align: right;">Page 42</p> <p>1 they believe are happening or could be</p> <p>2 forecasted for for the coming year.</p> <p>3 Q. And do you view -- is -- strike</p> <p>4 that.</p> <p>5 Is Magna a source to which you would</p> <p>6 turn if you were trying to understand the</p> <p>7 trends going on in the advertising industry?</p> <p>8 A. It is one source that we would look</p> <p>9 at.</p> <p>10 Q. And do you consider Magna's</p> <p>11 publications to be reliable?</p> <p>12 A. I believe what they publish is as</p> <p>13 accurate as I -- as I can -- you know, tell.</p> <p>14 Like, I wouldn't have any reason not to believe</p> <p>15 what their information is.</p> <p>16 Q. And from your point of view, are</p> <p>17 Magna's publications -- strike that.</p> <p>18 Do Magna's publications accurately</p> <p>19 represent the state of the advertising industry</p> <p>20 from your point of view?</p> <p>21 MR. RYAN: Objection. Form.</p> <p>22 THE WITNESS: I believe they provide</p>	<p style="text-align: right;">Page 44</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. Okay. I'll -- I'll -- I'll be more</p> <p>3 specific.</p> <p>4 Are you aware of a Department of</p> <p>5 Justice investigation with respect to digital</p> <p>6 advertising and Google?</p> <p>7 A. Yes.</p> <p>8 Q. When did you become aware of that</p> <p>9 investigation?</p> <p>10 A. This year.</p> <p>11 Q. And when you say "this year," can</p> <p>12 you pinpoint it any more specifically?</p> <p>13 A. It came in on a news feed for me as</p> <p>14 well as a conversation with -- I would guess it</p> <p>15 would be privileged conversation with counsel.</p> <p>16 Q. And which counsel are you referring</p> <p>17 to?</p> <p>18 A. The postal service.</p> <p>19 Q. And is that individual in the room</p> <p>20 here?</p> <p>21 A. One of them is, yes.</p> <p>22 Q. Any others?</p>
<p style="text-align: right;">Page 43</p> <p>1 a position. I believe they try to substantiate</p> <p>2 that within their -- their research.</p> <p>3 And we use them as one of many of</p> <p>4 the groups that are out there to understand</p> <p>5 where trends are going.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. Okay. When did you come to be</p> <p>8 involved in a government investigation</p> <p>9 regarding digital advertising?</p> <p>10 MR. RYAN: Objection to foundation.</p> <p>11 I am going to instruct --</p> <p>12 MS. GOODMAN: The question is asking</p> <p>13 for a time period. It's not calling for any</p> <p>14 communications with a lawyer.</p> <p>15 MR. RYAN: I'm just going to caution</p> <p>16 the witness not to talk about -- to the extent</p> <p>17 that your answer would reflect anything that</p> <p>18 would depend upon communications with counsel,</p> <p>19 just caution the witness.</p> <p>20 THE WITNESS: Could you clarify your</p> <p>21 description of what you just said. It's --</p> <p>22 it's -- I am interpreting it as broad.</p>	<p style="text-align: right;">Page 45</p> <p>1 MR. RYAN: Objection to this line.</p> <p>2 I mean, you can't ask questions like this. Are</p> <p>3 you asking which attorneys he has talked with?</p> <p>4 MS. GOODMAN: Yes. It's an entirely</p> <p>5 proper question.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. So my question to you, Mr. Karpenko,</p> <p>8 is: What attorneys have you spoken with this</p> <p>9 year regarding a government investigation of</p> <p>10 digital advertising and Google?</p> <p>11 A. Michael Weaver has been my primary</p> <p>12 contact. There may be others within the law</p> <p>13 department present. I -- I'm not specifically</p> <p>14 recalling anyone over another. It was very</p> <p>15 much just an interaction conversation.</p> <p>16 Q. And when you say "the law</p> <p>17 department," is that within the postal service?</p> <p>18 A. My reference to the law department</p> <p>19 is the USPS law department.</p> <p>20 Q. How about any lawyers affiliated</p> <p>21 with the Department of Justice?</p> <p>22 MR. RYAN: Objection --</p>

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<p style="text-align: right;">Page 46</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. Have you spoken this year with any</p> <p>3 lawyers from the Department of Justice</p> <p>4 regarding an investigation of digital</p> <p>5 advertising and Google?</p> <p>6 MR. RYAN: Objection to form and</p> <p>7 foundation.</p> <p>8 THE WITNESS: Yes.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. And what lawyers at the Department</p> <p>11 of Justice have you spoken with regarding an</p> <p>12 investigation of digital advertising and</p> <p>13 Google?</p> <p>14 MR. RYAN: Objection to foundation.</p> <p>15 MS. GOODMAN: Mr. Karpenko has said</p> <p>16 that he spoke with Department of Justice</p> <p>17 lawyers. I have asked the foundation -- I have</p> <p>18 laid the foundation and now --</p> <p>19 MR. RYAN: It's not a memory test.</p> <p>20 MS. GOODMAN: -- I am following on</p> <p>21 the question.</p> <p>22 MR. RYAN: It's not a memory test.</p>	<p style="text-align: right;">Page 48</p> <p>1 intending to impede into privileged</p> <p>2 conversations. I am asking for the identities</p> <p>3 of the lawyers as well as the time period. The</p> <p>4 kind of things that would occur -- appear --</p> <p>5 appear on a privilege log. So that's what my</p> <p>6 questions are designed at. Okay.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Mr. Karpenko, to the extent you</p> <p>9 recall, which attorneys at the Department of</p> <p>10 Justice have you spoken with regarding the</p> <p>11 government investigation into digital ads and</p> <p>12 Google?</p> <p>13 A. I can't recall them all. There are</p> <p>14 three attorneys representing the Department of</p> <p>15 Justice here that I have engaged with</p> <p>16 privileged conversation with.</p> <p>17 There is one on the Zoom that shows</p> <p>18 up as the one screen that we have engaged -- I</p> <p>19 believe I have engaged with.</p> <p>20 Q. And is that Mr. Carman?</p> <p>21 A. I believe so.</p> <p>22 Q. Okay.</p>
<p style="text-align: right;">Page 47</p> <p>1 MS. GOODMAN: Of course not. If he</p> <p>2 doesn't recall, he can provide that answer, but</p> <p>3 the foundation objections are not proper so --</p> <p>4 MR. RYAN: But you're asking the</p> <p>5 attorney -- you're asking him to list out all</p> <p>6 the attorneys he has spoken with and --</p> <p>7 MS. GOODMAN: If he can do that,</p> <p>8 yes. I am entitled to ask the question. If he</p> <p>9 is not able to recall those names from his</p> <p>10 memory --</p> <p>11 MR. RYAN: You are getting into</p> <p>12 communications with counsel, so I just --</p> <p>13 MS. GOODMAN: No. No, I'm not.</p> <p>14 MR. RYAN: If -- he can try to</p> <p>15 answer questions about who he has talked with</p> <p>16 to the extent he knows or recalls and when</p> <p>17 those communications -- you're entitled to ask</p> <p>18 those questions, but I think the questions are</p> <p>19 going into the line of communications with</p> <p>20 counsel.</p> <p>21 MS. GOODMAN: Okay. Well, I am very</p> <p>22 mindful of that line, and I am -- I am not</p>	<p style="text-align: right;">Page 49</p> <p>1 A. There are probably others. I didn't</p> <p>2 keep a list of them. I would have to go back</p> <p>3 and refer to maybe a meeting invite that people</p> <p>4 were on, but I wouldn't be able to tell you</p> <p>5 specifically who off the top of my head, and</p> <p>6 even some I wouldn't even remember their names.</p> <p>7 Q. In what time period do you recall --</p> <p>8 what was the first time you recall speaking</p> <p>9 with a lawyer from the Department of Justice</p> <p>10 regarding a digital -- regarding an</p> <p>11 investigation into digital ads and Google?</p> <p>12 A. The -- it was similar to the time</p> <p>13 that it became publicly published out into the</p> <p>14 world.</p> <p>15 Q. And when you came across the</p> <p>16 publication of the lawsuit in the course of</p> <p>17 your work -- well, strike that.</p> <p>18 Is that how you came to learn of the</p> <p>19 lawsuit in the course of your work as executive</p> <p>20 director of brand marketing?</p> <p>21 A. I became aware --</p> <p>22 MR. RYAN: Objection to foundation.</p>

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<p>1 THE WITNESS: I became aware of --</p> <p>2 of the complaint through a news feed that came</p> <p>3 through my iPhone as well as through our</p> <p>4 lawyers reaching out to us through some</p> <p>5 contact, I believe, with Department of Justice.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. And prior to learning of the</p> <p>8 complaint through a news feed that came from</p> <p>9 your iPhone, had you anticipated being involved</p> <p>10 in a lawsuit regarding Google and digital</p> <p>11 advertising?</p> <p>12 MR. RYAN: Object to the form.</p> <p>13 Mischaracterizing the witness's prior</p> <p>14 testimony.</p> <p>15 THE WITNESS: Could you clarify that</p> <p>16 for me.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Sure. Before you learned of the</p> <p>19 lawsuit through a news feed that came through</p> <p>20 your iPhone, did you know a lawsuit would be</p> <p>21 coming?</p> <p>22 MR. RYAN: Object to the form.</p>	<p>1 specific information as to DOJ's specific</p> <p>2 intent.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. So you --</p> <p>5 A. I didn't -- I didn't write the</p> <p>6 complaint.</p> <p>7 Q. Have you read the complaint?</p> <p>8 A. I have.</p> <p>9 Q. And have you seen the United States</p> <p>10 Postal Service mentioned anywhere in it?</p> <p>11 A. I believe so.</p> <p>12 Q. Okay. And when you read the -- did</p> <p>13 you read the complaint around the time that it</p> <p>14 was filed?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Did you read it as a result</p> <p>17 of the news alert that you got?</p> <p>18 MR. RYAN: Objection. Foundation.</p> <p>19 THE WITNESS: I believe it was</p> <p>20 provided under privilege while we were having</p> <p>21 discussions.</p> <p>22 MS. GOODMAN: Okay. Can I have Tab</p>
Page 51	Page 53
<p>1 THE WITNESS: I only knew of the</p> <p>2 complaint as a complaint. I did not know if</p> <p>3 postal would be involved nor if I would be</p> <p>4 involved in any of the complaint.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. And so it was subsequent to the</p> <p>7 filing of the complaint that you came to be</p> <p>8 involved in this lawsuit; is that accurate?</p> <p>9 MR. RYAN: Objection. Foundation.</p> <p>10 Objection. Form and foundation.</p> <p>11 THE WITNESS: I am trying to</p> <p>12 remember if information was asked for from the</p> <p>13 postal service tied to our media spend and our</p> <p>14 media process.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. But prior to the filing of the</p> <p>17 complaint, did you have any knowledge or</p> <p>18 awareness that the postal service would be</p> <p>19 involved as an entity for which the United</p> <p>20 States would seek monetary damages from Google?</p> <p>21 MR. RYAN: Objection to form.</p> <p>22 THE WITNESS: I wouldn't have</p>	<p>1 6.</p> <p>2 (Deposition Exhibit 33 was marked</p> <p>3 for identification.)</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Prior to the filing of the</p> <p>6 complaint, did you anticipate being a witness</p> <p>7 in this lawsuit?</p> <p>8 A. There was nothing for me to think</p> <p>9 that I would be a witness for the complaint.</p> <p>10 Q. And is that -- strike that.</p> <p>11 I am handing you Exhibit 33,</p> <p>12 USPS-ADS-140586 through 588.</p> <p>13 I will ask you to take a look and</p> <p>14 see if you recognize this as an e-mail you</p> <p>15 received in January of 2023.</p> <p>16 Did you receive this e-mail?</p> <p>17 A. Yes.</p> <p>18 Q. And it is with an individual at the</p> <p>19 United States Postal Service, Office of</p> <p>20 Inspector General; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. And to the best of your</p>

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<p style="text-align: right;">Page 54</p> <p>1 recollection, was January 9, 2023, the first</p> <p>2 time you received any outreach with respect to</p> <p>3 an inquiry that sought to determine whether the</p> <p>4 U.S. Postal Service purchased any advertising</p> <p>5 on the open web in third-party websites, such</p> <p>6 as New York Times.com, CNN.com or</p> <p>7 Bloomberg.com?</p> <p>8 MR. RYAN: Objection to form and</p> <p>9 foundation.</p> <p>10 THE WITNESS: Could you repeat the</p> <p>11 question again, please.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. Sure. I just want to know if -- and</p> <p>14 I was reading from Mr. Gardener's e-mail to you</p> <p>15 on January 9 at the bottom of the document.</p> <p>16 A. Yes.</p> <p>17 Q. Was that the first outreach you</p> <p>18 received from anybody within the government</p> <p>19 about an inquiry, as he uses, to determine</p> <p>20 whether the postal service purchased any</p> <p>21 advertising on the open web and third-party</p> <p>22 websites, such as New York Times.com, CNN.com</p>	<p style="text-align: right;">Page 56</p> <p>1 Karpenko's e-mail dated January 9, 11:12 a.m.,</p> <p>2 in the middle of page Bates ending 87. First</p> <p>3 paragraph.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. What did you mean that: "Most of</p> <p>6 that media is acquired through our media agency</p> <p>7 through USPS"?</p> <p>8 A. I am just looking for it here.</p> <p>9 Q. I'm sorry. Page 2.</p> <p>10 A. Page 2.</p> <p>11 Q. Middle of the page.</p> <p>12 MR. RYAN: I mean, you can take your</p> <p>13 time to look at the document.</p> <p>14 MS. GOODMAN: Yeah.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. It's in the same paragraph where</p> <p>17 you --</p> <p>18 A. "Since our team really handles the</p> <p>19 paid media," about midway on the page.</p> <p>20 Q. Yes.</p> <p>21 A. Thank you. We do. So your question</p> <p>22 was: What does that mean?</p>
<p style="text-align: right;">Page 55</p> <p>1 or Bloomberg.com?</p> <p>2 MR. RYAN: Objection to form.</p> <p>3 THE WITNESS: The e-mail above --</p> <p>4 component above Matthew Gardner does say</p> <p>5 coincidentally we have a meeting with another</p> <p>6 group, DOJ, tied to something very similar.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. And that's you writing; is that</p> <p>9 right?</p> <p>10 A. That is me writing, yes.</p> <p>11 Q. To Mr. Gardner.</p> <p>12 And do you recall when you received</p> <p>13 any outreach from the DOJ tied to something</p> <p>14 very similar?</p> <p>15 A. I do not. No. I do not.</p> <p>16 Q. You write to Mr. Gardner: "Our team</p> <p>17 really handles the paid media and most of that</p> <p>18 media is acquired through our media agency for</p> <p>19 USPS."</p> <p>20 MR. RYAN: Martha, can you specify</p> <p>21 where you are?</p> <p>22 MS. GOODMAN: I am reading Mr.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. Yes. You can answer.</p> <p>2 A. Our team manages a contract, we have</p> <p>3 a contract with Universal McCann and that we</p> <p>4 instruct them to help us provide and place</p> <p>5 media for our initiatives.</p> <p>6 Q. And Universal McCann purchased that</p> <p>7 -- purchases that media; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Now, in your third paragraph, where</p> <p>10 you say -- when you say "third-party</p> <p>11 websites."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. Why were you asking Mr. Gardner the</p> <p>15 clarifying questions contained within this</p> <p>16 third paragraph?</p> <p>17 A. I didn't quite understand what he</p> <p>18 was asking for. I was looking for clarity.</p> <p>19 Q. And you see --</p> <p>20 A. Apologize.</p> <p>21 Q. At the top of the Page 2, Mr.</p> <p>22 Gardner responds: "Thank you for the quick</p>

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<p style="text-align: right;">Page 58</p> <p>1 response. I am probably using terms</p> <p>2 differently than what" you -- "is commonly used</p> <p>3 in advertising."</p> <p>4 Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. Was he using terms differently than</p> <p>7 what are commonly used in advertising?</p> <p>8 A. I don't think he was using uncommon</p> <p>9 terms. I was looking for clarity though.</p> <p>10 Q. What was unclear about his request</p> <p>11 from your point of view?</p> <p>12 A. Context.</p> <p>13 Q. What do you mean?</p> <p>14 A. That's my answer. It seemed to be a</p> <p>15 general ask and I was unclear of what he was</p> <p>16 looking -- or trying to look for, and as such,</p> <p>17 I did ask for clarity so that we could be</p> <p>18 thorough in his ask for whatever data he may be</p> <p>19 looking for.</p> <p>20 Q. And turning to the first page</p> <p>21 continuing in the e-mail chain, you write that:</p> <p>22 "Fox, CNBC, Times, et cetera, are platforms to</p>	<p style="text-align: right;">Page 60</p> <p>1 through a direct deal with that platform?</p> <p>2 MR. RYAN: Objection to form.</p> <p>3 THE WITNESS: The postal service</p> <p>4 contracts with UM to act as an agent for us to</p> <p>5 make purchases like this.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. And could UM then make such a</p> <p>8 purchase through a direct deal between it and</p> <p>9 Fox or CNBC?</p> <p>10 MR. RYAN: Objection to foundation.</p> <p>11 THE WITNESS: Possibly.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. And are there other ways that UM</p> <p>14 could make a purchase to place USPS advertising</p> <p>15 on these platforms beyond a direct deal?</p> <p>16 MR. RYAN: Objection to form.</p> <p>17 THE WITNESS: Possibly.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. Can you think of any other possible</p> <p>20 ways beyond a direct deal that UM could make a</p> <p>21 purchase to place USPS advertising on these</p> <p>22 platforms?</p>
<p style="text-align: right;">Page 59</p> <p>1 advertise on for the USPS."</p> <p>2 Do you see that?</p> <p>3 A. I do.</p> <p>4 Q. What did you mean by that?</p> <p>5 A. Those are areas where we provide</p> <p>6 content. Fox, CNBC, Times, et cetera, are all</p> <p>7 potential areas where we put advertising</p> <p>8 towards.</p> <p>9 Q. Are there a variety of different</p> <p>10 ways that the postal service could place</p> <p>11 advertisements on these platforms?</p> <p>12 MR. RYAN: Objection to form.</p> <p>13 THE WITNESS: We might have various</p> <p>14 ways of advertising with these groups. They</p> <p>15 could be physical, for example, with the New</p> <p>16 York Times and their paper. It could be in the</p> <p>17 form of video, either through, for example, Fox</p> <p>18 or CNBC's networks, and it could also be put as</p> <p>19 a digital or digital display on their sites.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. And could they -- those kinds of</p> <p>22 advertisements that you described be purchased</p>	<p style="text-align: right;">Page 61</p> <p>1 MR. RYAN: Objection to form.</p> <p>2 MS. GOODMAN: What's your form</p> <p>3 objection?</p> <p>4 MR. RYAN: You are basically asking</p> <p>5 him to speculate as to how UM would do this.</p> <p>6 MS. GOODMAN: He is responsible for</p> <p>7 advertising.</p> <p>8 MR. RYAN: If he --</p> <p>9 MS. GOODMAN: -- on the postal</p> <p>10 service marketing brands messaging. If he does</p> <p>11 not know the answer, he can so state, but it is</p> <p>12 not calling for speculation.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. So based on your experience as the</p> <p>15 executive director of brands marketing and the</p> <p>16 senior director for customer marketing at the</p> <p>17 postal service, are you aware of any other ways</p> <p>18 beyond a direct deal between UM and these</p> <p>19 platforms that a purchase could be made to</p> <p>20 place advertising on these platforms?</p> <p>21 MR. RYAN: Same objection.</p> <p>22 THE WITNESS: Possibly. There are -</p>

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<p style="text-align: right;">Page 62</p> <p>1 from a 50,000 foot level, UM might work with a</p> <p>2 company like a Magna or other entity that might</p> <p>3 buy larger amounts of media and package that up</p> <p>4 with their clients to get better buys for media</p> <p>5 or better packages. The specificities of what</p> <p>6 those deals are, I am not aware of.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Are you familiar with the term</p> <p>9 "programmatic advertising"?</p> <p>10 A. Yes.</p> <p>11 Q. What does that mean to you?</p> <p>12 A. Programmatic provides an opportunity</p> <p>13 for brands or advertisers to serve up content</p> <p>14 to potential target audiences or individuals</p> <p>15 that a brand or advertiser might want to reach</p> <p>16 specifically versus a more general approach</p> <p>17 that may cover a broader range of audience.</p> <p>18 Q. And to your knowledge, would UM --</p> <p>19 strike that.</p> <p>20 To your knowledge, is UM able to</p> <p>21 purchase advertising on behalf of the United</p> <p>22 States Postal Service on these platforms</p>	<p style="text-align: right;">Page 64</p> <p>1 Who are you referring to when you</p> <p>2 say "our counsel"?</p> <p>3 A. That would be representatives of the</p> <p>4 USPS law department.</p> <p>5 Q. And when you had -- strike that.</p> <p>6 Do you recall having this meeting</p> <p>7 with the Department of Justice Antitrust</p> <p>8 Division in and around the time of January 9,</p> <p>9 2023?</p> <p>10 A. I don't specifically remember the</p> <p>11 date.</p> <p>12 Q. But do you recall the meeting?</p> <p>13 A. I believe we had some level of</p> <p>14 interaction with the Department of Justice and</p> <p>15 our counsel. I think I'd consider it</p> <p>16 privileged.</p> <p>17 Q. Okay. At this time, did you</p> <p>18 consider the Department of Justice Antitrust</p> <p>19 Division to be your lawyers for the United</p> <p>20 States Postal Service?</p> <p>21 A. The Department of Justice does</p> <p>22 represent the United States Postal Service.</p>
<p style="text-align: right;">Page 63</p> <p>1 mentioned in your e-mail in Exhibit 33, through</p> <p>2 a programmatic mechanism?</p> <p>3 MR. RYAN: Objection to form.</p> <p>4 THE WITNESS: UM is able to purchase</p> <p>5 programmatic buys for the postal service. I</p> <p>6 couldn't tell you specifically how or -- how</p> <p>7 they go about doing that within the ones</p> <p>8 mentioned here or others.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. Okay. Turning to your third</p> <p>11 paragraph, you mention the inquiry from the</p> <p>12 Department of Justice Antitrust Division.</p> <p>13 Do you see that?</p> <p>14 A. First page?</p> <p>15 Q. Yeah, bottom, third paragraph.</p> <p>16 A. The inquiry from --</p> <p>17 Q. Yes.</p> <p>18 A. With Michael above -- below it?</p> <p>19 Q. Correct.</p> <p>20 A. Yes.</p> <p>21 Q. You say: "We will have our counsel</p> <p>22 on as well."</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. In connection with this meeting that</p> <p>2 is discussed on Page 1 of this e-mail chain,</p> <p>3 did you consider the Department of Justice to</p> <p>4 be lawyers for the United States Postal Service</p> <p>5 in that meeting?</p> <p>6 MR. RYAN: Objection to form.</p> <p>7 THE WITNESS: I have always</p> <p>8 considered the Department of Justice the postal</p> <p>9 service's representation, regardless of time</p> <p>10 and when, where.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. When you -- strike that.</p> <p>13 So what was the purpose of having,</p> <p>14 to use your words, "our counsel" on the</p> <p>15 particular meeting with the Department of</p> <p>16 Justice Antitrust Division?</p> <p>17 MR. RYAN: That seems to be striking</p> <p>18 into privileged territory. If you are asking</p> <p>19 why he is -- why various counsel have been at a</p> <p>20 meeting.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. To your knowledge, why was counsel</p>

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<p style="text-align: right;">Page 66</p> <p>1 for the United States Postal Service</p> <p>2 participating in a meeting with the Department</p> <p>3 of Justice Antitrust Division if you consider</p> <p>4 the Department of Justice to be your lawyer?</p> <p>5 A. I consider our USPS law department,</p> <p>6 counsel for the postal service. They represent</p> <p>7 us in a number of different perspectives. I</p> <p>8 think there are maybe close to 400 lawyers at</p> <p>9 the postal service that handle everything from</p> <p>10 employment law to IP protection, patent,</p> <p>11 corporate business, regulatory, I am using</p> <p>12 layperson's terms so I apologize, and the DOJ</p> <p>13 also represents the postal service.</p> <p>14 If the DOJ was to e-mail me</p> <p>15 directly, I would include representatives from</p> <p>16 our USPS legal group to be on the call. To me,</p> <p>17 it's considered a privileged environment and</p> <p>18 both -- both groups, DOJ and USPS work</p> <p>19 together.</p> <p>20 Q. So turning -- going up to the next</p> <p>21 e-mail in the chain, Mr. Gardner says: "Okay,</p> <p>22 great, and thank you for the clarification."</p>	<p style="text-align: right;">Page 68</p> <p>1 something that they need to work on together</p> <p>2 potentially.</p> <p>3 Q. And have you heard of the term</p> <p>4 "deconflict" before?</p> <p>5 A. Yes.</p> <p>6 Q. What is your understanding of what</p> <p>7 that means?</p> <p>8 A. Again, in this context, this was</p> <p>9 interpreted by me that the office of inspector</p> <p>10 general was doing something, potentially DOJ</p> <p>11 was doing something, and in order to ensure</p> <p>12 there were not duplicative efforts or</p> <p>13 conflicting efforts, they had an opportunity to</p> <p>14 have conversation with themselves, with each</p> <p>15 other, and understand just exactly what each</p> <p>16 side was working on.</p> <p>17 Q. And now going to the top e-mail on</p> <p>18 the chain, Mr. Gardner writes to you that he</p> <p>19 will be in touch soon.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And did he get back in touch with</p>
<p style="text-align: right;">Page 67</p> <p>1 Do you see where I am?</p> <p>2 A. Yes.</p> <p>3 Q. He says: "Let me get back to you</p> <p>4 after I speak to DOJ out west. They may want</p> <p>5 to deconflict first."</p> <p>6 Do you know -- what is your</p> <p>7 understanding of deconflict, what deconflicting</p> <p>8 means in this context?</p> <p>9 A. The understanding I came away from,</p> <p>10 from this e-mail, was that the OIG was doing</p> <p>11 some type of analysis or investigation. It may</p> <p>12 have been similar to what DOJ, the Department</p> <p>13 of Justice, was looking at.</p> <p>14 I can't speak as to what they were</p> <p>15 looking for, looking at. Hence, my mention to</p> <p>16 the office of inspector general contact, that</p> <p>17 there was a -- another -- there were other</p> <p>18 inquiries tied around media, and I feel like I</p> <p>19 merely provided visibility to the OIG and to</p> <p>20 the other counsels here to clarify what they</p> <p>21 were working on, whether they were working on</p> <p>22 something separate or they were working on</p>	<p style="text-align: right;">Page 69</p> <p>1 you?</p> <p>2 A. I don't recall.</p> <p>3 Q. After January 9, 2023, do you have</p> <p>4 any recollection of any conversations with</p> <p>5 anybody from the OIG with respect to digital ad</p> <p>6 spend by the postal service?</p> <p>7 A. I don't recall.</p> <p>8 MS. GOODMAN: Shall we take a break?</p> <p>9 MR. RYAN: Sure.</p> <p>10 THE VIDEOGRAPHER: Going off the</p> <p>11 record. The time is 10:56.</p> <p>12 (A short recess was taken.)</p> <p>13 THE VIDEOGRAPHER: Going back on the</p> <p>14 record. The time is 11:17.</p> <p>15 BY MS. GOODMAN:</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p>

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MR. RYAN: I think the answer to --

22 THE WITNESS: Specifically to reach

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<p style="text-align: right;">Page 74</p> <p>1 out to UM?</p> <p>2 BY MS. GOODMAN:</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 MR. RYAN: Counsel, you are asking</p> <p>7 -- you're asking -- that's a question -- if you</p> <p>8 ask it the other way around, it would be not</p> <p>9 privileged. Just ask --</p> <p>10 MS. GOODMAN: State your objection.</p> <p>11 State your objection.</p> <p>12 MR. RYAN: Privileged</p> <p>13 communications.</p> <p>14 MS. GOODMAN: Okay.</p> <p>15 MR. RYAN: And attorney-client work</p> <p>16 product unless we know otherwise. Why don't</p> <p>17 you ask it so it's not -- it does not show up</p> <p>18 as -- just ask, you know, if there was some</p> <p>19 reason other than --</p> <p>20 MS. GOODMAN: No. No. I will ask</p> <p>21 the question the way I choose.</p> <p>22 MR. RYAN: Then I will continue to</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Are you following that instruction?</p> <p>2 A. I will go with his guidance today.</p> <p>3 MS. GOODMAN: Obviously, I reserve</p> <p>4 our rights to move to compel to get an answer</p> <p>5 to that question, because it is an improper</p> <p>6 assertion of the attorney work product --</p> <p>7 MR. RYAN: Based on --</p> <p>8 MS. GOODMAN: -- privilege.</p> <p>9 MR. RYAN: Based on the testimony</p> <p>10 that the witness has give -- this appears to</p> <p>11 be, it would be a privileged communication, so</p> <p>12 we might -- I will just notify you for the</p> <p>13 record that we might be clawing this document</p> <p>14 back.</p> <p>15 MS. GOODMAN: Okay. Have fun with</p> <p>16 that.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Let's go back to Exhibit 33.</p> <p>19 You write to Mr. Gardner: "I will</p> <p>20 look for the list of third parties on our end."</p> <p>21 On January 9 in the second e-mail in</p> <p>22 the thread, right?</p>
<p style="text-align: right;">Page 75</p> <p>1 object.</p> <p>2 MS. GOODMAN: Okay.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. Mr. Karpenko, did you make this</p> <p>5 request to Lisa Catucci and Mr. Knopf at UM at</p> <p>6 the direction of your lawyer?</p> <p>7 MR. RYAN: I am going to object.</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q. Yes or no.</p> <p>10 MR. RYAN: I am going to -- I am</p> <p>11 going to instruct the witness not to answer</p> <p>12 that question because it then reveals</p> <p>13 communication with counsel.</p> <p>14 MS. GOODMAN: No, it doesn't. It is</p> <p>15 a yes-or no question.</p> <p>16 MR. RYAN: Well, I'm instructing --</p> <p>17 I am going to instruct the witness not to</p> <p>18 answer the question. If you want, we can divvy</p> <p>19 it out, dish it out later, but for that</p> <p>20 question, I'm going to instruct the witness not</p> <p>21 to answer.</p> <p>22 BY MS. GOODMAN:</p>	<p style="text-align: right;">Page 77</p> <p>1 MR. RYAN: Counsel, where are you?</p> <p>2 THE WITNESS: First page.</p> <p>3 MR. RYAN: If you can just --</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. Do you see where you wrote that?</p> <p>6 A. I do, yes.</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 MR. RYAN: Counsel --</p> <p>18 MS. GOODMAN: He is in the middle of</p> <p>19 an answer. He needs to finish the answer. Do</p> <p>20 not interrupt the witness during his testimony.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q. You may proceed, Mr. Karpenko.</p>

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<p style="text-align: right;">Page 78</p> <p>1 MR. RYAN: Are you finished</p> <p>2 answering the question? I was going to -- I</p> <p>3 want -- I was going to let the witness proceed</p> <p>4 with his answer to this question, but then I</p> <p>5 want to take a brief break to review this</p> <p>6 document.</p> <p>7 MS. GOODMAN: Please do not</p> <p>8 interrupt the witness in the middle of his</p> <p>9 testimony.</p> <p>10 MR. RYAN: Counsel --</p> <p>11 MS. GOODMAN: If you need to make</p> <p>12 that statement, you wait for him to finish his</p> <p>13 answer before you do that.</p> <p>14 MR. RYAN: Counsel, I was, as a</p> <p>15 courtesy, I was trying to wait for the witness</p> <p>16 to finish answering the question, but at this</p> <p>17 point, I would like to take a break and confer</p> <p>18 with the witness.</p> <p>19 MR. CHU: We need to go off.</p> <p>20 MS. GOODMAN: Excuse me. You don't</p> <p>21 get to unilaterally determine that we are going</p> <p>22 off the record.</p>	<p style="text-align: right;">Page 80</p> <p>1 record. The time is 11:28.</p> <p>2 (A short recess was taken.)</p> <p>3 THE VIDEOGRAPHER: Going back on the</p> <p>4 record. The time is 11:41.</p> <p>5 MS. GOODMAN: Counsel, prior to the</p> <p>6 break, we were discussing -- sorry.</p> <p>7 BY MS. GOODMAN:</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 Do you recall that testimony?</p> <p>16 MR. RYAN: And, Counsel, at this</p> <p>17 time, I'm going to claw -- we are going to claw</p> <p>18 back Exhibit 34 as privileged communication --</p> <p>19 privileged work product as a result of</p> <p>20 communication with counsel.</p> <p>21 MS. GOODMAN: I need to ask the</p> <p>22 witness some questions to lay the predicates</p>
<p style="text-align: right;">Page 79</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. Mr. Karpenko, it looks like you said</p> <p>3 -- it looks like in Exhibit 34, I am asking UM</p> <p>4 for information.</p> <p>5 Did you have anything else to add to</p> <p>6 your answer?</p> <p>7 MR. RYAN: Martha.</p> <p>8 MS. GOODMAN: And then we can take a</p> <p>9 break.</p> <p>10 MR. RYAN: Martha, I just -- I will</p> <p>11 instruct the witness not to answer so we can</p> <p>12 confer on whether this is privileged</p> <p>13 communication. You can ask -- if it is not,</p> <p>14 you can ask the question immediately after the</p> <p>15 break, but we need to take a break to confer</p> <p>16 with counsel -- to confer with the witness</p> <p>17 about this individual communication.</p> <p>18 So can we go off the record, please?</p> <p>19 MS. GOODMAN: Sure. How many</p> <p>20 minutes?</p> <p>21 MR. RYAN: Just a couple.</p> <p>22 THE VIDEOGRAPHER: Going off the</p>	<p style="text-align: right;">Page 81</p> <p>1 for that assertion of privilege. So I'm going</p> <p>2 to go ahead and do that. Okay?</p> <p>3 MR. RYAN: So, Counsel, we are</p> <p>4 clawing the document back --</p> <p>5 MS. GOODMAN: Okay. I don't need --</p> <p>6 MR. RYAN: -- I will instruct the</p> <p>7 witness not to answer any questions about the</p> <p>8 document.</p> <p>9 MS. GOODMAN: Okay.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. So, Mr. Karpenko --</p> <p>12 MR. RYAN: And you can ask --</p> <p>13 MS. GOODMAN: Please let me make my</p> <p>14 record.</p> <p>15 MR. RYAN: -- when we -- when we</p> <p>16 talked and everything.</p> <p>17 MS. GOODMAN: Please let me make my</p> <p>18 record. Thank you.</p> <p>19 MR. RYAN: I'm not going to ask --</p> <p>20 allow the witness to answer questions about the</p> <p>21 exhibit.</p> <p>22 MS. GOODMAN: Please let me make my</p>

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<p style="text-align: right;">Page 82</p> <p>1 record.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q. With respect to Exhibit 34, which</p> <p>4 you are looking at but I am not -- for the</p> <p>5 record I have covered up Exhibit 34 while I ask</p> <p>6 you these questions.</p> <p>7 MS. GOODMAN: Does everybody agree?</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q. Mr. Karpenko, do you see me, that I</p> <p>10 am not looking at Exhibit 34?</p> <p>11 MR. RYAN: I am not going to let the</p> <p>12 witness answer questions about Exhibit 34</p> <p>13 whether you're looking at it or not. It</p> <p>14 doesn't really make a difference, but --</p> <p>15 MS. GOODMAN: Okay.</p> <p>16 MR. RYAN: -- there you go.</p> <p>17 Appreciate you. Appreciate --</p> <p>18 MS. GOODMAN: Please let me make my</p> <p>19 record.</p> <p>20 MR. RYAN: -- appreciate it.</p> <p>21 MS. GOODMAN: Thank you.</p> <p>22 BY MS. GOODMAN:</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Are you going to answer the</p> <p>2 question?</p> <p>3 MR. RYAN: And I am going to</p> <p>4 instruct the witness not to answer.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Are you going to follow that</p> <p>7 instruction?</p> <p>8 A. I will follow the instruction.</p> <p>9 Q. Okay. And did you make the request</p> <p>10 for a list of third parties to -- make the</p> <p>11 request of Universal McCann for a list of third</p> <p>12 parties in order to respond to the office of</p> <p>13 attorney -- Office of Inspector General's</p> <p>14 inquiry that we looked at in Exhibit 33?</p> <p>15 MR. RYAN: I'm -- I'm going to</p> <p>16 object as that would be work product, but if</p> <p>17 you have questions on 33.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. Okay. My question on Exhibit 33 is</p> <p>20 the e-mail we looked at between yourself and</p> <p>21 the office of the inspector general, correct?</p> <p>22 A. Correct.</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. So do you agree that I am not</p> <p>2 looking at Exhibit 34 right now?</p> <p>3 A. You are looking at me.</p> <p>4 Q. Thank you.</p> <p>5 And you are looking at Exhibit 34,</p> <p>6 correct, or you have it in front of you?</p> <p>7 MR. RYAN: I am going to instruct</p> <p>8 the witness not to answer any questions about</p> <p>9 Exhibit 34.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. So you won't answer whether you have</p> <p>12 Exhibit 34 in front of you? Do you follow that</p> <p>13 instruction?</p> <p>14 A. I will follow my instruction.</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 MR. RYAN: I'm going to object</p> <p>19 privileged communicate -- that's privileged</p> <p>20 work -- that would be privileged communication</p> <p>21 and work product.</p> <p>22 BY MS. GOODMAN:</p>	<p style="text-align: right;">Page 85</p> <p>1 Q. Okay. And in that e-mail, the OIG</p> <p>2 is asking about the third-party sites on which</p> <p>3 the United States Postal Service places</p> <p>4 advertisements, correct?</p> <p>5 A. They were inquiring about</p> <p>6 third-party -- about third-party sites.</p> <p>7 Q. Okay. And in the e-mail on the</p> <p>8 first page, you write to OIG stating: "I will</p> <p>9 look for the list of third parties," correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. So my question to you, Mr.</p> <p>12 Karpenko, is whether part of the reason you</p> <p>13 requested or you sent an e-mail to Universal</p> <p>14 McCann inquiring about a list of third parties</p> <p>15 was because the OIG asked you for such a list</p> <p>16 and you told the OIG that you would look for</p> <p>17 such a list.</p> <p>18 MR. RYAN: Objection to form and</p> <p>19 foundation.</p> <p>20 THE WITNESS: I did say I would look</p> <p>21 for a list.</p> <p>22 BY MS. GOODMAN:</p>

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<p style="text-align: right;">Page 86</p> <p>1 Q. And was one way that you looked for</p> <p>2 the list by asking Universal McCann in your</p> <p>3 e-mail in Exhibit 34?</p> <p>4 MR. RYAN: Objection to form and</p> <p>5 foundation.</p> <p>6 THE WITNESS: It appears I did not</p> <p>7 find anything on my end at the postal service</p> <p>8 when I first looked on my own system.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. And so in order to respond to the</p> <p>11 OIG inquiry reflected in Exhibit 33, once you</p> <p>12 could not find anything on your end, did you</p> <p>13 ask Universal McCann for such information in --</p> <p>14 as reflected in Exhibit 34, which I am not</p> <p>15 looking at?</p> <p>16 MR. RYAN: Objection to form and</p> <p>17 foundation. And I will again instruct the</p> <p>18 witness not to answer questions regarding</p> <p>19 Exhibit 34.</p> <p>20 MS. GOODMAN: Okay. I will</p> <p>21 rephrase.</p> <p>22 BY MS. GOODMAN:</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. Why do you think that?</p> <p>2 MR. RYAN: Objection to form and</p> <p>3 foundation.</p> <p>4 If it's --</p> <p>5 MS. GOODMAN: There is a question</p> <p>6 pending to the witness.</p> <p>7 MR. RYAN: If the -- you have asked</p> <p>8 why does he think it's privileged.</p> <p>9 MS. GOODMAN: I am entitled for</p> <p>10 his --</p> <p>11 MR. RYAN: If it's --</p> <p>12 MS. GOODMAN: -- view as to why he</p> <p>13 gets to --</p> <p>14 MR. RYAN: If it's communication --</p> <p>15 if it involved a communication with counsel,</p> <p>16 you're not to answer the question.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Okay. My question is to you, Mr.</p> <p>19 Karpenko: After January 9th did you ask anyone</p> <p>20 at Universal McCann to help you find a list of</p> <p>21 third-party sites on which the United States</p> <p>22 Postal Service places digital ads?</p>
<p style="text-align: right;">Page 87</p> <p>1 Q. So in order to respond to the OIG</p> <p>2 inquiry reflected in Exhibit 3 -- 33 after you</p> <p>3 could not find anything on your end, did you</p> <p>4 ask Universal McCann for a list of third-party</p> <p>5 sites?</p> <p>6 MR. RYAN: Objection to form and</p> <p>7 foundation.</p> <p>8 THE WITNESS: The e-mail was sent to</p> <p>9 me on January 9th. I did not ask anyone other</p> <p>10 than, on my end, postal. For me looking at it</p> <p>11 on January 9th, I didn't find anything.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. And how about subsequent to January</p> <p>14 9th? Did you ask anybody at Universal McCann</p> <p>15 to help you find a list of third-party sites on</p> <p>16 which the United States Postal Service places</p> <p>17 digital ads?</p> <p>18 MR. RYAN: Objection to form and</p> <p>19 foundation.</p> <p>20 THE WITNESS: I believe that's when</p> <p>21 it would fall under privileged conversation.</p> <p>22 BY MS. GOODMAN:</p>	<p style="text-align: right;">Page 89</p> <p>1 THE VIDEOGRAPHER: If you could,</p> <p>2 your mic, Mr. Ryan.</p> <p>3 MR. RYAN: Oh, sorry.</p> <p>4 THE WITNESS: I believe subsequent</p> <p>5 to me looking any further, I had privileged</p> <p>6 conversations with our attorneys.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Which attorneys?</p> <p>9 A. Attorneys that represent the postal</p> <p>10 service.</p> <p>11 Q. Who are those?</p> <p>12 A. I don't have the meeting invite in</p> <p>13 front of me, so I wouldn't be able to tell you</p> <p>14 which one specifically.</p> <p>15 Q. And do you know that this meeting</p> <p>16 took place between January 9th and January 11th</p> <p>17 of 2023 that you are referencing with</p> <p>18 attorneys?</p> <p>19 MR. RYAN: I am going to instruct</p> <p>20 the witness not to answer.</p> <p>21 MS. GOODMAN: As to the timing of</p> <p>22 the meeting, you're instructing him not to</p>

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<p>1 answer?</p> <p>2 MR. RYAN: You're -- you're tying</p> <p>3 e-mails to a meeting and then, therefore,</p> <p>4 extracting the substance of the meetings as</p> <p>5 a -- as a result. So, yes, I'm going to</p> <p>6 instruct the witness not to answer.</p> <p>7 MS. GOODMAN: Only at the level that</p> <p>8 is placed on a privilege log.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. So, Mr. Karpenko, for the record,</p> <p>11 you were referencing a meeting with attorneys</p> <p>12 for the United States Postal Service. And my</p> <p>13 question to you is whether that meeting</p> <p>14 occurred, to the best of your recollection,</p> <p>15 some time between January 9th and January 11th</p> <p>16 of 2013 [sic].</p> <p>17 MR. RYAN: And I have instructed the</p> <p>18 -- I am instructing the witness not to answer.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. Are you following that instruction?</p> <p>21 A. I am following that instruction.</p> <p>22 MS. GOODMAN: Okay. Counsel, for</p>	<p>1 Service, Mr. Karpenko, to the best of your</p> <p>2 recollection, did that meeting occur some time</p> <p>3 between January 9th and January 11th of 2023?</p> <p>4 MR. RYAN: Objection to form and</p> <p>5 foundation.</p> <p>6 MS. GOODMAN: May he answer that</p> <p>7 question?</p> <p>8 THE WITNESS: Could you repeat it</p> <p>9 one more time. Thank you.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Sure. When you were referencing a</p> <p>12 meeting with attorneys for the United States</p> <p>13 Postal Service, Mr. Karpenko, to the best of</p> <p>14 your recollection, did that meeting occur some</p> <p>15 time between January 9th and January 11th of</p> <p>16 2023?</p> <p>17 MR. RYAN: I'll restate the</p> <p>18 objection.</p> <p>19 THE WITNESS: I don't know for sure.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. So your best testimony is you don't</p> <p>22 know whether the meeting that prompted you --</p>
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<p>1 the record, I vehemently disagree with your</p> <p>2 assertions of attorney work product and</p> <p>3 attorney-client privilege with respect to this</p> <p>4 line of communications.</p> <p>5 And we will reserve all of our</p> <p>6 rights to move to compel, and we will be</p> <p>7 following up with you on these improper</p> <p>8 objections.</p> <p>9 I'm going to move on to another</p> <p>10 exhibit.</p> <p>11 MR. RYAN: Can you hand back --</p> <p>12 since we've clawed them back --</p> <p>13 MS. GOODMAN: No. It has all of my</p> <p>14 attorney work product over it as well, so I'll</p> <p>15 destroy it.</p> <p>16 MR. RYAN: Fair enough.</p> <p>17 MS. GOODMAN: For the record, let me</p> <p>18 just ask this one more time because I</p> <p>19 misspoke -- misstated the date.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q. When you were referencing a meeting</p> <p>22 with attorneys for the United States Postal</p>	<p>1 strike that.</p> <p>2 Was there a meeting that prompted</p> <p>3 you to reach out to Universal McCann for a list</p> <p>4 of third-party sites with attorneys for the</p> <p>5 United States Postal Service?</p> <p>6 MR. RYAN: I am going to object to</p> <p>7 that question and instruct the witness not to</p> <p>8 answer as it would call for privileged</p> <p>9 communications with counsel.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Are you following that instruction?</p> <p>12 A. I am.</p> <p>13 Q. Okay.</p> <p>14 MS. GOODMAN: I am handing you</p> <p>15 Exhibit 35, USPS-ADS-899149 through 899151.</p> <p>16 (Deposition Exhibit 35 was marked</p> <p>17 for identification.)</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. And this is a series of text</p> <p>20 messages between yourself and the phone number</p> <p>21 301-437-7574 on January 9th, correct?</p> <p>22 A. I do see it, yes.</p>

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<p style="text-align: right;">Page 102</p> <p>1 A. I look at it as the postal service</p> <p>2 is in a good place, good standing, has good</p> <p>3 processes, good rigor and that what we do is</p> <p>4 accurate, lawful, and appropriate.</p> <p>5 Q. And so at this time in January of</p> <p>6 2023 when you received this outreach from the</p> <p>7 OIG about placement on third-party sites, were</p> <p>8 you at all concerned about -- were you at all</p> <p>9 concerned that that inquiry was in relation to</p> <p>10 whether the postal service was using digital</p> <p>11 media appropriately?</p> <p>12 MR. RYAN: Objection to form and</p> <p>13 foundation.</p> <p>14 THE WITNESS: I believe the postal</p> <p>15 service purchases media through the proper</p> <p>16 procedures and tries to maximize its return on</p> <p>17 investment.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q. Okay. Let me ask it a bit</p> <p>20 differently.</p> <p>21 When you received the outreach from</p> <p>22 the OIG, did it raise in your mind a concern</p>	<p style="text-align: right;">Page 104</p> <p>1 foundation.</p> <p>2 THE WITNESS: Historically OIG would</p> <p>3 have -- has come to our group to ask about our</p> <p>4 purchasing, our process, and our rigor in how</p> <p>5 we determine effectiveness in our advertising</p> <p>6 dollars towards our return or our expectation.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. So my question is specific at the</p> <p>9 time of the January 9, 2023 outreach. Did you</p> <p>10 form a belief that the reason for that outreach</p> <p>11 was connected to any investigation with respect</p> <p>12 to waste, fraud, or abuse within the postal</p> <p>13 service as pertaining to digital advertising?</p> <p>14 MR. RYAN: Objection to form and</p> <p>15 foundation.</p> <p>16 THE WITNESS: I wouldn't be able to</p> <p>17 answer that. It would have only been</p> <p>18 speculation on my part.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. Okay. And at the time of the</p> <p>21 January 9, 2023 outreach from the OIG, did you</p> <p>22 have any reason to believe at that time that</p>
<p style="text-align: right;">Page 103</p> <p>1 that the OIG was investigating the postal</p> <p>2 service?</p> <p>3 A. Historically --</p> <p>4 MR. RYAN: Objection to form.</p> <p>5 THE WITNESS: Historically the</p> <p>6 postal service ends up having -- historically</p> <p>7 the OIG for the postal service engages with the</p> <p>8 postal service tied to fraud, waste, and abuse.</p> <p>9 My interaction with the OIG has</p> <p>10 always been collaborative, cooperative, and</p> <p>11 they were asking for question -- asking</p> <p>12 questions that I was trying to understand</p> <p>13 context to provide them with the correct or</p> <p>14 accurate information if possible.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. And so at the time you received the</p> <p>17 outreach from the OIG on January 9, 2023, did</p> <p>18 it raise in your mind a question as to whether</p> <p>19 they were investigating waste, fraud, or abuse</p> <p>20 within the postal service as pertaining to</p> <p>21 digital advertising?</p> <p>22 MR. RYAN: Objection to form and</p>	<p style="text-align: right;">Page 105</p> <p>1 the outreach was connected to any antitrust</p> <p>2 investigation of Google?</p> <p>3 A. No.</p> <p>4 Q. Okay. And so Ms. Catucci writes on</p> <p>5 Page 2 of this text message chain in the middle</p> <p>6 of the page: "We have a list. We aren't just</p> <p>7 buying on any site out there."</p> <p>8 Do you see that?</p> <p>9 A. Yes, in the middle.</p> <p>10 Q. Okay. And you write: "I think that</p> <p>11 would be helpful," correct?</p> <p>12 A. Uh-huh.</p> <p>13 Q. And she says: "Knowing that or</p> <p>14 seeing the list? It's long."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you have any idea of how long the</p> <p>18 list of third-party sites is on which postal</p> <p>19 service places digital advertising?</p> <p>20 A. I'm sorry. Could you repeat that</p> <p>21 again.</p> <p>22 Q. Do you have any idea how entity --</p>

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<p style="text-align: right;">Page 106</p> <p>1 how many web sites are on the list of</p> <p>2 third-party sites on which postal service</p> <p>3 places digital advertising?</p> <p>4 A. I do not.</p> <p>5 Q. And then you write -- and this sort</p> <p>6 of was cut off on Page 2 but continues on Page</p> <p>7 3 -- "I have a bit of OIG and DOJ activity</p> <p>8 around media."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. What did you mean when you said: "I</p> <p>12 think a bunch of players are bad actors"?</p> <p>13 A. Historically when you have questions</p> <p>14 coming from the OIG or the DOJ or some law</p> <p>15 enforcement environment, it implies that they</p> <p>16 are looking at something for something.</p> <p>17 I did not have context as to what</p> <p>18 that was. And I referred to a prior incident a</p> <p>19 number of years ago where DOJ took to task a</p> <p>20 number of media entities on not passing through</p> <p>21 rebates which was a prior case that happened a</p> <p>22 number of years ago.</p>	<p style="text-align: right;">Page 108</p> <p>1 A. No.</p> <p>2 Q. -- when you were sending this text?</p> <p>3 A. No. No.</p> <p>4 Q. And for the record, at the time of</p> <p>5 sending this text on January 9, 2023, did you</p> <p>6 think Google was a bad actor?</p> <p>7 A. No.</p> <p>8 Q. Okay. And you write: "I will send</p> <p>9 an e-mail to you and Michael. I won't really</p> <p>10 provide the why for context."</p> <p>11 Why did you say that?</p> <p>12 A. I see it right here. I am just</p> <p>13 reading it here.</p> <p>14 This was tied to potentially asking</p> <p>15 for the list of third-party providers.</p> <p>16 Q. So the e-mail you sent after --</p> <p>17 strike that.</p> <p>18 The e-mail you reference in your</p> <p>19 text with Ms. Catucci is the e-mail we were</p> <p>20 looking at in Exhibit 34; is that correct?</p> <p>21 MR. RYAN: Objection to form and</p> <p>22 foundation.</p>
<p style="text-align: right;">Page 107</p> <p>1 Q. Now do you -- is it -- did you -- is</p> <p>2 it accurate that you thought a bunch of players</p> <p>3 are bad actors where you wrote: "I think a</p> <p>4 bunch of players are bad actors"?</p> <p>5 A. I -- I wrote the text.</p> <p>6 Q. Yeah.</p> <p>7 A. And it was me surmising or making a</p> <p>8 purely guess. It was just a conversation.</p> <p>9 Q. And when you say "surmising and</p> <p>10 making purely a guess," are you referring to</p> <p>11 the purpose for the OIG and DOJ's activity</p> <p>12 around media?</p> <p>13 MR. RYAN: Objection to form and</p> <p>14 foundation.</p> <p>15 THE WITNESS: I was making a</p> <p>16 statement back to Ms. Catucci that there could</p> <p>17 be a number of players that could be bad</p> <p>18 actors.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. At the time of this text, are you --</p> <p>21 were you -- did you have any particular bad</p> <p>22 actor in mind --</p>	<p style="text-align: right;">Page 109</p> <p>1 THE WITNESS: I don't know.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q. And so did you send an e-mail to</p> <p>4 Ms. Catucci and Mr. Knopf making a request for</p> <p>5 a list of third-party sites?</p> <p>6 A. I may have --</p> <p>7 MR. RYAN: Objection to foundation.</p> <p>8 THE WITNESS: I may have. I don't</p> <p>9 recall specifically if I did or not.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. And did you look at any documents</p> <p>12 here today thus far, such as Exhibit 34, where</p> <p>13 you sent a request to Universal McCann for a</p> <p>14 list of third-party sites?</p> <p>15 MR. RYAN: I'm going to object and</p> <p>16 instruct the witness not to answer questions</p> <p>17 related to what you -- what you were referring</p> <p>18 to as Exhibit 34.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. Are you following that instruction?</p> <p>21 A. I am.</p> <p>22 MR. RYAN: And that's -- we'll claw</p>

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<p>1 that back as a privileged communication, work</p> <p>2 product and privileged communication.</p> <p>3 MS. GOODMAN: Are you claiming the</p> <p>4 attorney-client privilege over Exhibit 34?</p> <p>5 MR. RYAN: Yes -- yes.</p> <p>6 MS. GOODMAN: Are you claiming the</p> <p>7 attorney work product privilege over Exhibit</p> <p>8 34?</p> <p>9 MR. RYAN: Haven't I --</p> <p>10 MS. GOODMAN: Those are two</p> <p>11 different privileges. You understand that,</p> <p>12 right?</p> <p>13 MR. RYAN: We are clawing back</p> <p>14 Exhibit 34.</p> <p>15 MS. GOODMAN: On what grounds?</p> <p>16 MR. RYAN: That's privileged work</p> <p>17 product based on communications with counsel.</p> <p>18 MS. GOODMAN: So are you invoking</p> <p>19 both the attorney-client --</p> <p>20 MR. RYAN: Yes.</p> <p>21 MS. GOODMAN: -- privilege and the</p> <p>22 attorney work product privilege?</p>	<p>1 A. It would be a guess, but some time</p> <p>2 in January.</p> <p>3 Q. And what did that list -- can you</p> <p>4 describe in more detail what was reflected on</p> <p>5 that list.</p> <p>6 A. If I remember correctly, the -- it</p> <p>7 came in as an Excel spreadsheet. It had a list</p> <p>8 of entities or organizations and investment</p> <p>9 made, monies that the postal service had</p> <p>10 directed to be used for media.</p> <p>11 Q. And was that list sent to you by</p> <p>12 Universal McCann?</p> <p>13 A. I believe so.</p> <p>14 Q. Okay. Were any attorneys on that</p> <p>15 communication?</p> <p>16 A. I believe that list was sent to me</p> <p>17 and potentially people on my team.</p> <p>18 Q. Would the people on your team have</p> <p>19 been attorneys?</p> <p>20 A. Not -- I do not believe an attorney</p> <p>21 received it from Universal McCann.</p> <p>22 Q. Okay. And did you send that list on</p>
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<p>1 MR. RYAN: Yes.</p> <p>2 MS. GOODMAN: Are you invoking the</p> <p>3 deliberative process privilege?</p> <p>4 MR. RYAN: You think -- no.</p> <p>5 MS. GOODMAN: No. Okay.</p> <p>6 We disagree, and we'll take that up</p> <p>7 with the Court, of course.</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q. Did you obtain a list of third-party</p> <p>10 sites, to your knowledge, from Universal</p> <p>11 McCann?</p> <p>12 A. I -- I obtained -- we, the postal</p> <p>13 service, obtained a list of purchases,</p> <p>14 investment that UM had made with a variety of</p> <p>15 different entities.</p> <p>16 Q. And the list that you're referencing</p> <p>17 that you obtained, a list of purchases,</p> <p>18 investments that UM had made with a variety of</p> <p>19 different entities, when did you obtain such a</p> <p>20 list?</p> <p>21 A. I don't know off the top of my head.</p> <p>22 Q. Can you approximate?</p>	<p>1 to attorneys after receiving it from Universal</p> <p>2 McCann?</p> <p>3 A. I shared that file with our</p> <p>4 attorneys.</p> <p>5 Q. Which attorneys did you share it</p> <p>6 with?</p> <p>7 A. I know there were postal attorneys,</p> <p>8 Michael Weaver. It could -- it could have</p> <p>9 included Maria Voetsch on that as well as</p> <p>10 others. I just don't know. I'd have to look</p> <p>11 at the sent e-mail.</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p>

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

15 BY MS. GOODMAN:

16 Q. Okay.

17 MR. RYAN: Counsel, I need to take a

18 break.

19 MS. GOODMAN: Okay.

20 THE VIDEOGRAPHER: Off the record.

21 The time is 12:23.

22 (A short recess was taken.)

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<p style="text-align: right;">Page 118</p> <p>1 of saying when they will be around, but the</p> <p>2 rest of it, yes, so...</p> <p>3 MS. GOODMAN: Well, I am not looking</p> <p>4 at the document in front of me, so do you want</p> <p>5 to apply redactions for it -- to it for me</p> <p>6 during the deposition so that I can examine the</p> <p>7 witness on it to the extent it is not protected</p> <p>8 by the privilege that you are claiming with</p> <p>9 which I disagree? Thank you for allowing me to</p> <p>10 finish.</p> <p>11 MR. RYAN: Certainly. Martha, the</p> <p>12 only part of the communication that is not</p> <p>13 privileged would be just the discussion</p> <p>14 revolving around when they would be able to</p> <p>15 talk essentially, so we can -- if you want to</p> <p>16 ask about that, I, you know, it's hard to</p> <p>17 redact this in real time. We don't have the</p> <p>18 redaction tools.</p> <p>19 MS. GOODMAN: I could give you a</p> <p>20 Sharpie. Would that work?</p> <p>21 MR. RYAN: And -- I mean, it seems</p> <p>22 like it's a waste of time, Martha, frankly.</p>	<p style="text-align: right;">Page 120</p> <p>1 cover e-mail as well?</p> <p>2 MR. RYAN: Yes, but it will be</p> <p>3 heavily redacted. I mean, the majority of the</p> <p>4 document.</p> <p>5 MS. GOODMAN: Okay. And can you</p> <p>6 explain the basis for your attorney work</p> <p>7 product privilege assertion over Exhibits 34</p> <p>8 and 36?</p> <p>9 MR. RYAN: Again, it is a</p> <p>10 communication that resulted -- again, the --</p> <p>11 it's a communication that results from a</p> <p>12 request from DOJ as part of -- and so,</p> <p>13 therefore, it is DOJ work product.</p> <p>14 MS. GOODMAN: So are you claiming</p> <p>15 any protection under the work product doctrine</p> <p>16 around communications between nonattorneys and</p> <p>17 media agencies for the federal agency</p> <p>18 advertisers?</p> <p>19 MR. RYAN: I'm going to stop you</p> <p>20 right there. How many questions -- how many</p> <p>21 times do I have to assert the same privilege.</p> <p>22 We've clawed it back. I stated the reasons</p>
<p style="text-align: right;">Page 119</p> <p>1 MS. GOODMAN: Could you provide me a</p> <p>2 redacted copy with a Sharpie and I can</p> <p>3 determine whether I wish to examine the witness</p> <p>4 on the redacted version?</p> <p>5 MR. RYAN: Why don't we do that. We</p> <p>6 will do that during the break and -- we will</p> <p>7 try to do that during the break.</p> <p>8 MS. GOODMAN: Okay. And now, let's</p> <p>9 go to Exhibit 36, the cover e-mail to Exhibit</p> <p>10 36. Please state your reasons for clawing that</p> <p>11 document back.</p> <p>12 MR. RYAN: The exact same reasons,</p> <p>13 it's part of Exhibit 34 that we have identified</p> <p>14 as attorney work product.</p> <p>15 MS. GOODMAN: And the only privilege</p> <p>16 over which you -- the only privilege you are</p> <p>17 asserting over Exhibit 34 -- sorry, Exhibit 36</p> <p>18 is the attorney work product privilege; is that</p> <p>19 accurate?</p> <p>20 MR. RYAN: Correct.</p> <p>21 MS. GOODMAN: Okay. And will you</p> <p>22 provide me a redacted copy of Exhibit 36, the</p>	<p style="text-align: right;">Page 121</p> <p>1 why.</p> <p>2 THE VIDEOGRAPHER: Can we go off the</p> <p>3 record for a second so I can fix Mr. Ryan's</p> <p>4 microphone.</p> <p>5 MR. RYAN: Sorry. If you want to</p> <p>6 use your time on this, that's fine, but I think</p> <p>7 we have stated our reasons for our -- for why</p> <p>8 we are clawing these documents back.</p> <p>9 MS. GOODMAN: Okay. I just wanted</p> <p>10 to give you the opportunity to make your record</p> <p>11 because we will put it before the Court when we</p> <p>12 move to compel, and it is your job -- it is the</p> <p>13 United States's burden of proof and persuasion</p> <p>14 to invoke this privilege, so I just want to</p> <p>15 provide you the full opportunity to do that on</p> <p>16 the record.</p> <p>17 MR. RYAN: Appreciate it.</p> <p>18 MS. GOODMAN: Do you have anything</p> <p>19 more to say?</p> <p>20 MR. RYAN: I don't have anything</p> <p>21 more to say, no.</p> <p>22 MS. GOODMAN: Thank you, Mr. Ryan.</p>

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<p>1 We can go off the record.</p> <p>2 THE VIDEOGRAPHER: Off the record.</p> <p>3 The time is 12:42.</p> <p>4 (A short recess was taken.)</p> <p>5 THE VIDEOGRAPHER: Going back on the</p> <p>6 record. The time is 13:39.</p> <p>7 (The witness was excused from the</p> <p>8 conference room.)</p> <p>9 MR. RYAN: All right. Counsel,</p> <p>10 thank you for giving me a minute just to</p> <p>11 explain the basis of our privilege claims on 34</p> <p>12 and -- what was Exhibits 34 and 36 and the</p> <p>13 e-mails that are contained in them.</p> <p>14 So 34A, what we've got now are</p> <p>15 redacted copies of these e-mails, and I just</p> <p>16 want to clarify the basis of the privilege.</p> <p>17 So there were two separate requests</p> <p>18 that the witness had. There's a request from</p> <p>19 OIG, which we are not claiming privilege over,</p> <p>20 but there is also a request from DOJ, and that</p> <p>21 -- for that we are claiming privilege because</p> <p>22 the -- when he came out and when he did work on</p>	<p>1 time then.</p> <p>2 MS. GOODMAN: My clarifying question</p> <p>3 is to make your record better for you --</p> <p>4 MR. RYAN: I appreciate that, but</p> <p>5 I'm not -- I'm not going to engage with you</p> <p>6 on -- on -- on this.</p> <p>7 MS. GOODMAN: We can't talk over one</p> <p>8 another because our court reporter needs to --</p> <p>9 MR. RYAN: Yeah. I'm not the</p> <p>10 deponent, but thank you, Martha.</p> <p>11 MS. GOODMAN: You're welcome, Mr.</p> <p>12 Ryan.</p> <p>13 My question is: Is it remaining the</p> <p>14 attorney work product privilege, or are there</p> <p>15 any other --</p> <p>16 MR. RYAN: I'm not going to -- I'm</p> <p>17 not going to engage further with you on this.</p> <p>18 Why don't we bring the witness back in and you</p> <p>19 can resume your examination.</p> <p>20 MS. GOODMAN: All right. And so you</p> <p>21 will not let me state for the record my</p> <p>22 question to you which is: Is your privilege</p>
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<p>1 -- culled up and gathered information, that</p> <p>2 would be work product. So we're claiming</p> <p>3 privilege on DOJ portion. So that's why there</p> <p>4 is this sort of distinction why we had to then</p> <p>5 redact these pages.</p> <p>6 So -- so 36, what is now marked as</p> <p>7 36B, we didn't claim the attachment as</p> <p>8 privilege because it's part of the OIG request.</p> <p>9 But we just want to clarify that that was the</p> <p>10 distinction.</p> <p>11 So that's all I wanted to state on</p> <p>12 the record. Thank you.</p> <p>13 MS. GOODMAN: And --</p> <p>14 MR. RYAN: I am not going to argue</p> <p>15 or debate the exhibit, you know, the basis of</p> <p>16 our privilege. That is the basis of our</p> <p>17 privilege, and I just want to clarify that for</p> <p>18 the record.</p> <p>19 MS. GOODMAN: I just would like to</p> <p>20 ask one clarifying question --</p> <p>21 MR. RYAN: So I'm not going -- I'm</p> <p>22 not going -- that will have to come out of your</p>	<p>1 assertion limited to the Attorney Work Product</p> <p>2 Doctrine?</p> <p>3 MR. RYAN: I'm not going -- yes, but</p> <p>4 that's -- I'm not going to go any further on</p> <p>5 this with you. Okay.</p> <p>6 MS. GOODMAN: That's all I wanted</p> <p>7 you to make clear. Thank you, Mr. Ryan.</p> <p>8 We can go off the record.</p> <p>9 THE VIDEOGRAPHER: Going off the</p> <p>10 record. The time is 13:42.</p> <p>11 (A short recess was taken.)</p> <p>12 THE VIDEOGRAPHER: Going back on the</p> <p>13 record. The time is 13:43.</p> <p>14 (The witness returned to the</p> <p>15 conference room.)</p> <p>16 (Deposition Exhibit 34A was marked</p> <p>17 for identification.)</p> <p>18 MS. GOODMAN: Mr. Karpenko, I am</p> <p>19 handing you what is marked as Exhibit 34A,</p> <p>20 USPS-ADS-43815 through 43816, which has been</p> <p>21 redacted as a result of the United States</p> <p>22 clawing back this document.</p>

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<p style="text-align: right;">Page 126</p> <p>1 BY MS. GOODMAN:</p> <p>2 Q. And I would like to ask you --</p> <p>3 well --</p> <p>4 A. Oh, I'm sorry.</p> <p>5 MS. GOODMAN: I -- I handed the</p> <p>6 marked copy to the witness.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Mr. Knopf writes to you: "To be</p> <p>9 sure you have the information you need, are you</p> <p>10 free to share the story behind this ask?"</p> <p>11 Do you see that in the middle of the</p> <p>12 page?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And you say: "Not sure,"</p> <p>15 correct?</p> <p>16 A. That is stated underneath my name in</p> <p>17 this e-mail copy.</p> <p>18 Q. And you wrote that?</p> <p>19 A. I believe so.</p> <p>20 Q. Okay. Why were you not sure whether</p> <p>21 you could share the story behind the ask, which</p> <p>22 is redacted on Page 16 in the initial e-mail</p>	<p style="text-align: right;">Page 128</p> <p>1 A. I don't -- I don't recall.</p> <p>2 Q. We looked at text messages you had</p> <p>3 exchanged with Ms. Catucci earlier. Was</p> <p>4 that -- in that text chain, were you sharing</p> <p>5 with her the story behind the ask?</p> <p>6 MR. RYAN: Does the witness need to</p> <p>7 reference the -- the exhibit?</p> <p>8 THE WITNESS: Is that the prior</p> <p>9 exhibit?</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. If you would like to look at that,</p> <p>12 yes. I don't have the exhibit number in front</p> <p>13 of me, but it's the text messages.</p> <p>14 In that chain are you sharing the</p> <p>15 story behind the ask?</p> <p>16 A. I will refer to Exhibit 35.</p> <p>17 Q. Okay.</p> <p>18 A. It's a very general synopsis of why</p> <p>19 I was asking for the perspective of what third</p> <p>20 party meant in her -- in her words.</p> <p>21 Q. Okay. And did you ever have further</p> <p>22 conversations with Ms. Catucci about your</p>
<p style="text-align: right;">Page 127</p> <p>1 chain initiating this thread?</p> <p>2 MR. RYAN: So, Martha, A, I don't</p> <p>3 think you should be asking questions about the</p> <p>4 redacted portion of a document.</p> <p>5 MS. GOODMAN: I'm not.</p> <p>6 MR. RYAN: But, B, I'm going to</p> <p>7 instruct the witness not to answer the question</p> <p>8 to the extent it would involve communications</p> <p>9 with counsel or the product of communications</p> <p>10 with counsel.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. So, Mr. Karpenko, why were you not</p> <p>13 sure whether you were free to share the story</p> <p>14 behind this ask?</p> <p>15 A. I'm not sure how to answer that;</p> <p>16 meaning, I don't know what I was -- where I was</p> <p>17 at at that particular point in time.</p> <p>18 Q. And did you ever share the story</p> <p>19 behind the ask with Mr. Knopf?</p> <p>20 A. I don't believe so.</p> <p>21 Q. Did you share the story behind the</p> <p>22 ask with Ms. Catucci?</p>	<p style="text-align: right;">Page 129</p> <p>1 request to her for a list of third-party sites?</p> <p>2 MR. RYAN: I'm going to object to</p> <p>3 foundation.</p> <p>4 THE WITNESS: I believe I had</p> <p>5 additional conversations with Lisa Catucci.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. And what were those additional</p> <p>8 conversations you are recalling?</p> <p>9 MR. RYAN: Objection to form and</p> <p>10 foundation.</p> <p>11 MS. GOODMAN: What is the basis for</p> <p>12 your objection?</p> <p>13 MR. RYAN: What conversations are</p> <p>14 you referring to? You haven't even --</p> <p>15 MS. GOODMAN: He -- he is saying he</p> <p>16 believes -- that he believes he had</p> <p>17 conversations, so I am asking him to elaborate.</p> <p>18 MR. RYAN: If you can.</p> <p>19 THE WITNESS: I'm not sure I am able</p> <p>20 to tell you in specific what conversations</p> <p>21 occurred with Lisa Catucci or others, but it</p> <p>22 wouldn't be uncommon for me to engage in</p>

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<p style="text-align: right;">Page 130</p> <p>1 conversation with Lisa Catucci and others from</p> <p>2 UM.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. And so my question, Mr. Karpenko,</p> <p>5 is: Do you recall any other conversations,</p> <p>6 besides the text message chain, with</p> <p>7 Ms. Catucci about the request you posed to her</p> <p>8 for a list of third-party sites?</p> <p>9 A. I don't specifically recall, but</p> <p>10 there may be something there, but I don't have</p> <p>11 anything -- you may have something in</p> <p>12 discovery, but I don't recall anything</p> <p>13 specific.</p> <p>14 Q. Do you recall anything generally?</p> <p>15 A. I think what I would consider</p> <p>16 interaction would be perhaps asking for clarity</p> <p>17 on any information that may have been provided</p> <p>18 to me from UM, asking for specificity or</p> <p>19 clarity on what some of the files may have in</p> <p>20 them.</p> <p>21 Q. And did you -- are you -- are you</p> <p>22 recalling specific instances where you did ask</p>	<p style="text-align: right;">Page 132</p> <p>1 with counsel.</p> <p>2 THE WITNESS: For clarity,</p> <p>3 January -- I think you were asking for January.</p> <p>4 I believe other asks potentially would have</p> <p>5 been tied under interaction with privilege.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q. And so I want to be very clear for</p> <p>8 the record. Is your testimony that you made</p> <p>9 other requests for information from Universal</p> <p>10 McCann under interaction with privilege?</p> <p>11 MR. RYAN: Objection to form and</p> <p>12 foundation.</p> <p>13 THE WITNESS: When you say</p> <p>14 "interaction with privilege," could you help</p> <p>15 clarify that for me.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. I was using your words, so I just</p> <p>18 want to make sure I am using the same way</p> <p>19 you're speaking so --</p> <p>20 A. Got it. Okay.</p> <p>21 Q. -- if you want to elaborate on what</p> <p>22 you mean by that, I can tailor my questions</p>
<p style="text-align: right;">Page 131</p> <p>1 for clarity on information that UM provided you</p> <p>2 with respect to this ask for a list of</p> <p>3 third-party sites?</p> <p>4 MR. RYAN: Objection to form.</p> <p>5 THE WITNESS: Are you referring to</p> <p>6 this particular list in section --</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q. Yeah.</p> <p>9 A. -- Exhibit 36?</p> <p>10 Q. Yes.</p> <p>11 A. I don't believe I had -- I can't</p> <p>12 remember if I had additional conversations</p> <p>13 about the list versus conversations about other</p> <p>14 files or things that might be sent.</p> <p>15 Q. And in the January 2023 time period,</p> <p>16 did you make any other requests to UM for</p> <p>17 information regarding U.S. Postal Service's</p> <p>18 digital ad purchases made by UM?</p> <p>19 MR. RYAN: I will caution the</p> <p>20 witness not to reveal -- just not to answer to</p> <p>21 the extent it would involve communications with</p> <p>22 counsel or were the result of communications</p>	<p style="text-align: right;">Page 133</p> <p>1 accordingly.</p> <p>2 MR. RYAN: Counsel, I'm not sure --</p> <p>3 I don't know what -- what's your -- I don't</p> <p>4 know what -- what's -- I'm going to object to</p> <p>5 form. I don't understand what you're asking</p> <p>6 him.</p> <p>7 MS. GOODMAN: Okay. Say your</p> <p>8 objection, please.</p> <p>9 MR. RYAN: Vague.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. Is it your testimony that you made</p> <p>12 other requests for information from Universal</p> <p>13 McCann under what -- you used the phrase --</p> <p>14 interaction with privilege?</p> <p>15 A. My asks --</p> <p>16 MR. RYAN: Objection to form.</p> <p>17 THE WITNESS: My asks with or</p> <p>18 interactions with UM to ask for information was</p> <p>19 for information and done with what I believe --</p> <p>20 interaction prior of having a conversation with</p> <p>21 our counsel.</p> <p>22 BY MS. GOODMAN:</p>

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<p style="text-align: right;">Page 134</p> <p>1 Q. And so is it your testimony that to</p> <p>2 the extent you requested information from UM in</p> <p>3 the January 2023 time period, it was -- your</p> <p>4 requests for information were based on a</p> <p>5 conversation with your counsel?</p> <p>6 MR. RYAN: Objection to form and</p> <p>7 foundation.</p> <p>8 And, Counsel, you've asked the same</p> <p>9 question three times, and you keep restating --</p> <p>10 trying to get the witness to restate it in your</p> <p>11 own words.</p> <p>12 MS. GOODMAN: You can state your</p> <p>13 objection. No speaking objections.</p> <p>14 THE WITNESS: Could you repeat it</p> <p>15 again. Thank you.</p> <p>16 BY MS. GOODMAN:</p> <p>17 Q. Yeah. Is it your testimony that</p> <p>18 when you asked for information from UM in the</p> <p>19 January 2023 time period, you did so based on a</p> <p>20 conversation with your counsel?</p> <p>21 MR. RYAN: Objection to form and</p> <p>22 foundation.</p>	<p style="text-align: right;">Page 136</p> <p>1 THE WITNESS: Thank you.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q. And is this a calendar invite for a</p> <p>4 Zoom meeting between yourself and Ms. Catucci</p> <p>5 on March 8th of 2023?</p> <p>6 A. Yes, it looks that way.</p> <p>7 Q. And the subject is: "Ad Spend."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall this meeting between</p> <p>11 yourself and Ms. Catucci on March 8th of 2023</p> <p>12 regarding ad spend?</p> <p>13 A. Specifically, no, but it's there.</p> <p>14 Q. What, if anything, do you recall</p> <p>15 about a Zoom meeting with Ms. Catucci in or</p> <p>16 around this time about ad spend?</p> <p>17 A. I don't recall specific --</p> <p>18 specifically the conversation.</p> <p>19 Q. Do you recall generally?</p> <p>20 A. If I did, I would be guessing.</p> <p>21 Q. Okay. Do you recall having any</p> <p>22 conversations with Ms. Catucci subsequent to</p>
<p style="text-align: right;">Page 135</p> <p>1 THE WITNESS: The information that</p> <p>2 -- some of the information that I may have</p> <p>3 asked for from UM was tied to privileged</p> <p>4 conversation with counsel.</p> <p>5 MS. GOODMAN: Okay. And I will hand</p> <p>6 you Exhibit 36A.</p> <p>7 THE WITNESS: Thank you.</p> <p>8 (Deposition Exhibit 36A was marked</p> <p>9 for identification.)</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. For the record this is a redacted</p> <p>12 version of Exhibit 36. Do you recognize that</p> <p>13 as such?</p> <p>14 A. I believe it's a portion of 36 that</p> <p>15 you handed me earlier.</p> <p>16 MS. GOODMAN: Okay. All right. I</p> <p>17 just wanted to mark that for the record. You</p> <p>18 can put that to the side.</p> <p>19 I am handing you Exhibit 37</p> <p>20 USPS-ADS-40943.</p> <p>21 (Deposition Exhibit 37 was marked</p> <p>22 for identification.)</p>	<p style="text-align: right;">Page 137</p> <p>1 January of 2023 regarding ad spend?</p> <p>2 A. That may be difficult for me to</p> <p>3 answer because the UM team is about media and</p> <p>4 ad spend and it could encompass almost anything</p> <p>5 tied to our advertising efforts.</p> <p>6 Q. Is it a normal part of your daily</p> <p>7 work -- is it a routine part in your work to</p> <p>8 have a one-on-one conversation with Ms. Catucci</p> <p>9 about ad spend?</p> <p>10 A. It would not be an exception.</p> <p>11 Q. Okay. And subsequent to January of</p> <p>12 2023, have you requested information from</p> <p>13 United -- Universal McCann based on a</p> <p>14 conversation with your counsel?</p> <p>15 A. I'm not sure -- I'm not sure about</p> <p>16 the question. Could you help me.</p> <p>17 Q. Yeah. After the complaint in this</p> <p>18 case was filed in January of 2023, have you</p> <p>19 made requests to Universal McCann for</p> <p>20 information in order to participate in this</p> <p>21 lawsuit?</p> <p>22 MR. RYAN: Counsel, I'm going to</p>

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<p>1 object. That's calling for privileged -- it's</p> <p>2 calling for privileged communication. I would</p> <p>3 --</p> <p>4 MS. GOODMAN: It is precisely the</p> <p>5 same kind of testimony you've already permitted</p> <p>6 him to provide. I am not asking for an</p> <p>7 instance --</p> <p>8 MR. RYAN: Well, that was a mistake</p> <p>9 on my part.</p> <p>10 MS. GOODMAN: -- I am asking a</p> <p>11 yes-or-no question, which is whether he has</p> <p>12 asked -- and I'll restate my question.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Mr. Karpenko, after January of 2023,</p> <p>15 have you requested information from Universal</p> <p>16 McCann as a result of a conversation with your</p> <p>17 counsel?</p> <p>18 A. I would say I have requested and</p> <p>19 received various information from Universal</p> <p>20 McCann both tied to privilege and not tied to</p> <p>21 privilege.</p> <p>22 MS. GOODMAN: We're going to move to</p>	<p>1 THE WITNESS: In my role I have a</p> <p>2 responsibility for hundreds of millions of</p> <p>3 dollars of budget, so I am always keeping top</p> <p>4 of mind that we're spending our investments or</p> <p>5 our moneys appropriately and getting the best</p> <p>6 value for that.</p> <p>7 So from a macro perspective, we're</p> <p>8 always looking at trying to get the best value.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q. I appreciate that answer. And my</p> <p>11 question is a bit more specific.</p> <p>12 Understanding that context that</p> <p>13 you're always trying to get the best value for</p> <p>14 USPS ad spend, my question is: Did you ever</p> <p>15 develop any concerns in the course of your work</p> <p>16 as executive director for brand marketing that</p> <p>17 the postal service was paying too much money</p> <p>18 for products or services offered by Google?</p> <p>19 A. So --</p> <p>20 MR. RYAN: Object to form.</p> <p>21 THE WITNESS: So whether it's Google</p> <p>22 or another entity, we -- we have a fixed budget</p>
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<p>1 compel on those communications too.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q. Prior to January of 2023 in the</p> <p>4 course of your work at the United States Postal</p> <p>5 Service, did you ever develop any concerns that</p> <p>6 Google was engaging in anticompetitive conduct?</p> <p>7 A. I was unaware of any anticompetitive</p> <p>8 conduct from Google.</p> <p>9 Q. And in the course of your work as a</p> <p>10 -- the executive director for brand marketing</p> <p>11 at the postal service, did you ever develop any</p> <p>12 concerns that you paid super-competitive prices</p> <p>13 for Google products?</p> <p>14 A. Can you clarify the -- the question.</p> <p>15 Q. Yeah. In the course of your work as</p> <p>16 executive director for brand marketing and</p> <p>17 participating as an advertiser in the</p> <p>18 advertising space, did you ever develop any</p> <p>19 concerns that the postal service was paying too</p> <p>20 much money for products or services from</p> <p>21 Google?</p> <p>22 MR. RYAN: Object to the form.</p>	<p>1 and we have to work within what those rates are</p> <p>2 offered for our -- for media. It could be in</p> <p>3 any media format.</p> <p>4 We take that budget. We take our</p> <p>5 desired outcome, and we try to apply an</p> <p>6 omni-channel approach to maximize our efforts.</p> <p>7 If we find that something isn't giving us the</p> <p>8 return on our investment or we are finding</p> <p>9 other channels that might be more conducive, we</p> <p>10 reallocate, and then we assign it to the UM</p> <p>11 to -- to purchase for us.</p> <p>12 We use a term called "return on ad</p> <p>13 spend" that helps us try to maximize our</p> <p>14 efforts in a way that if we're given a rate, we</p> <p>15 are not necessarily able to negotiate with, so</p> <p>16 we have to figure out how to have the same</p> <p>17 impact within our campaigns for the limited</p> <p>18 amount of dollars that we have.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. All right. So based on your prior</p> <p>21 two answers, I'm understanding your testimony</p> <p>22 that you never developed a specific concern</p>

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<p style="text-align: right;">Page 142</p> <p>1 that the postal service was paying too much</p> <p>2 money for products or services offered by</p> <p>3 Google.</p> <p>4 Am I understanding your testimony</p> <p>5 correctly that you never had such a specific</p> <p>6 concern as to Google?</p> <p>7 MR. RYAN: Objection to form and</p> <p>8 foundation.</p> <p>9 THE WITNESS: So Google offers a lot</p> <p>10 of products and services. Our interaction with</p> <p>11 Google is fairly vast at the postal service.</p> <p>12 We do things beyond advertising and marketing</p> <p>13 with them.</p> <p>14 So when you're asking about products</p> <p>15 and services it's a pretty broad ask for me.</p> <p>16 So could you help narrow it down for me.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q. Yes. My question is specific to</p> <p>19 Google products or services relating -- with</p> <p>20 respect to digital advertising. Okay. So I</p> <p>21 don't care about Gmail or Google Workspace or</p> <p>22 Google Drive.</p>	<p style="text-align: right;">Page 144</p> <p>1 or services for digital advertising.</p> <p>2 MR. RYAN: I'm going to object to</p> <p>3 form. And the witness -- let the witness try</p> <p>4 to answer the question.</p> <p>5 THE WITNESS: The postal service</p> <p>6 doesn't directly use products from Google such</p> <p>7 as DV360 for placement of advertising. We pay</p> <p>8 to place advertising on Google's environment so</p> <p>9 that we can reach our customers. I can't -- I</p> <p>10 can't evaluate their products that enable one</p> <p>11 to put media onto the various sites.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q. And why can't you evaluate Google's</p> <p>14 products that enable one to put media onto the</p> <p>15 various sites?</p> <p>16 A. The postal service created a</p> <p>17 contract with UM as a media agency of record</p> <p>18 for media.</p> <p>19 UM then places on behalf of the</p> <p>20 postal service media in various environments,</p> <p>21 and if they are utilizing Google's products to</p> <p>22 do that, we don't -- we don't dictate that and</p>
<p style="text-align: right;">Page 143</p> <p>1 Specific to products and services</p> <p>2 related to digital advertising, did you, in</p> <p>3 your capacity as executive director for brand</p> <p>4 marketing at the postal service, based on your</p> <p>5 knowledge and experience executing ad</p> <p>6 campaigns, ever develop a specific concern that</p> <p>7 the postal service was paying too much money</p> <p>8 for Google products or services related to</p> <p>9 digital advertising?</p> <p>10 A. So I might refrain that to say we --</p> <p>11 Q. Sir, I'm sorry to interrupt you, but</p> <p>12 my question is my question, and I am asking you</p> <p>13 to answer it as I have posed it rather than</p> <p>14 reframing it and answering a different</p> <p>15 question.</p> <p>16 So can you please try to --</p> <p>17 MR. RYAN: The witness is trying to</p> <p>18 answer your question, Martha.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q. -- to answer my question as to any</p> <p>21 specific concern as to Google specifically and</p> <p>22 the prices paid for the use of Google products</p>	<p style="text-align: right;">Page 145</p> <p>1 we don't -- we don't really have a lot of</p> <p>2 visibility on that part of the business.</p> <p>3 Q. In your capacity as executive</p> <p>4 director for brand marketing for the postal</p> <p>5 service, do you have any basis to know how much</p> <p>6 money the postal service has paid to Universal</p> <p>7 McCann for the use of Google products or</p> <p>8 services related to digital advertising?</p> <p>9 A. I don't have knowledge of the fees</p> <p>10 associated to use the products as much as our</p> <p>11 organization has visibility on the media spent</p> <p>12 in place for our various campaigns.</p> <p>13 Q. And so am I understanding you</p> <p>14 correctly that you do not know at a more</p> <p>15 granular level the fees paid by Universal</p> <p>16 McCann, if any, directly to Google for the</p> <p>17 placement of USPS digital advertising?</p> <p>18 MR. RYAN: I'm going to object to</p> <p>19 form and foundation.</p> <p>20 THE WITNESS: I'm unaware of the</p> <p>21 specific fees that UM and Google may take or</p> <p>22 share in -- in that sense. I am more aware of</p>

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<p>1 the media dollars spent that we -- we control</p> <p>2 when we give over to Universal McCann.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q. Okay. Prior to January of 2023, had</p> <p>5 you been aware of any investigation by the</p> <p>6 Department of Justice into Google's advertising</p> <p>7 businesses?</p> <p>8 MR. RYAN: Objection to form.</p> <p>9 THE WITNESS: I was not aware of</p> <p>10 anything.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q. Okay. Have you received a</p> <p>13 litigation hold related to this lawsuit?</p> <p>14 A. I believe I've received a litigation</p> <p>15 hold for this effort.</p> <p>16 Q. Do you recall when you received a</p> <p>17 litigation hold for this effort?</p> <p>18 A. I don't.</p> <p>19 Q. Do you recall whether it was before</p> <p>20 or after the filing of the complaint?</p> <p>21 A. I don't know.</p> <p>22 Q. So do you know whether it was before</p>	<p>1 counsel, not to answer the question.</p> <p>2 THE WITNESS: I can't answer that</p> <p>3 question.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q. And is that because you only could</p> <p>6 answer it based on conversations with counsel?</p> <p>7 A. I also am not the person assessing</p> <p>8 damages, so I -- I wouldn't -- I wouldn't be</p> <p>9 able to tell you what that expectation is.</p> <p>10 Q. Okay. You read the complaint in</p> <p>11 this -- filed in this lawsuit. Am I correct in</p> <p>12 that?</p> <p>13 A. Yes.</p> <p>14 Q. Did you understand it?</p> <p>15 A. To the best of a layperson's</p> <p>16 perspective.</p> <p>17 Q. You're not just a layperson,</p> <p>18 however, right? You are participating in the</p> <p>19 buying of digital advertising on behalf of the</p> <p>20 U.S. Postal Service, right?</p> <p>21 A. I participate in buying the --</p> <p>22 buying media for the postal service, but I am</p>
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<p>1 or after January 24th of 2023?</p> <p>2 A. I don't know.</p> <p>3 Q. Okay. What is your understanding of</p> <p>4 what this lawsuit is about?</p> <p>5 A. It appears there's a complaint that</p> <p>6 has been filed alleging Google having a</p> <p>7 monopolistic market in being able to provide</p> <p>8 and purchase media.</p> <p>9 Q. And what is your understanding of</p> <p>10 the United States Postal Service's role in this</p> <p>11 lawsuit?</p> <p>12 A. Postal service is a part of the</p> <p>13 federal government. Postal service has</p> <p>14 purchased media.</p> <p>15 I am here today to answer your</p> <p>16 questions.</p> <p>17 Q. Do you have an understanding whether</p> <p>18 the United States Postal Service would gain to</p> <p>19 recover any money as a result of this lawsuit?</p> <p>20 MR. RYAN: I am going to instruct</p> <p>21 the witness -- to the extent that you have</p> <p>22 knowledge solely because of conversations with</p>	<p>1 not counsel, so I -- I am not the one writing</p> <p>2 the -- the complaint.</p> <p>3 Q. Okay. Did you understand -- strike</p> <p>4 that.</p> <p>5 Do you think that the complaint</p> <p>6 accurately depicted the digital advertising</p> <p>7 industry as you understand it from the course</p> <p>8 of your work as executive director --</p> <p>9 MR. RYAN: I'm going to --</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q. -- of marketing for the United</p> <p>12 States Postal Service?</p> <p>13 MR. RYAN: I'm going to object as to</p> <p>14 form. You're asking for his legal conclusions</p> <p>15 essentially.</p> <p>16 MS. GOODMAN: No. I am asking for</p> <p>17 his lay witness testimony as to whether he</p> <p>18 thought it accurately reflected what happens in</p> <p>19 the advertising industry.</p> <p>20 MR. RYAN: Well, I will repeat my</p> <p>21 object to form and foundation.</p> <p>22 THE WITNESS: From a high level, it</p>

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<p>1 appears to be a range.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q. It appears to be a range. What do</p> <p>4 you mean by that?</p> <p>5 A. I -- I didn't see anything for me to</p> <p>6 interpret that it would be too into the weeds</p> <p>7 or, rather, too high of a perspective where it</p> <p>8 wasn't succinct enough to where the complaint</p> <p>9 was driving towards digital advertising.</p> <p>10 Q. Mr. Karpenko, I am not -- I</p> <p>11 apologize, but I do not quite understand your</p> <p>12 answer.</p> <p>13 A. Okay.</p> <p>14 Q. So what do you mean that you didn't</p> <p>15 see anything for you to interpret that would be</p> <p>16 too into the weeds or, rather, too high of a</p> <p>17 perspective where it wasn't succinct enough to</p> <p>18 where the complaint was driving towards digital</p> <p>19 advertising?</p> <p>20 MR. RYAN: So I'm going to object to</p> <p>21 form and foundation.</p> <p>22 And to the extent that your answer</p>	<p>1 with the witness, and he gave you an answer,</p> <p>2 and now you're arguing with him.</p> <p>3 MS. GOODMAN: Please state your</p> <p>4 objection for the record, and no speaking --</p> <p>5 MR. RYAN: That you're arguing with</p> <p>6 the -- you're arguing with the witness.</p> <p>7 MS. GOODMAN: No speaking</p> <p>8 objections.</p> <p>9 MR. RYAN: You asked me to state my</p> <p>10 objection for the record.</p> <p>11 MS. GOODMAN: Succinctly: Object.</p> <p>12 Form.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. You may proceed, Mr. Karpenko.</p> <p>15 MS. GOODMAN: I don't appreciate the</p> <p>16 laughter at me, Mr. Ryan.</p> <p>17 MR. RYAN: Ryan.</p> <p>18 MS. GOODMAN: That's what I said,</p> <p>19 Mr. Ryan.</p> <p>20 MR. RYAN: Okay. I thought you said</p> <p>21 Brian.</p> <p>22 THE WITNESS: I didn't write the</p>
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<p>1 would depend on communications with counsel, I</p> <p>2 am going to instruct you not to answer.</p> <p>3 THE WITNESS: I have been instructed</p> <p>4 not to answer, and I won't.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. He didn't instruct you not to</p> <p>7 answer. He just said if you had to rely on</p> <p>8 communications with counsel, not to rely on</p> <p>9 such communications.</p> <p>10 And for the record, I don't believe</p> <p>11 my question is asking you to rely on anything</p> <p>12 that you learned in communications with</p> <p>13 counsel --</p> <p>14 MR. RYAN: I'm going to object --</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q. -- I am going to trying to</p> <p>17 understand your reaction to the complaint from</p> <p>18 the perspective of your participation in the</p> <p>19 advertising industry as a buyer of advertising</p> <p>20 on behalf of the United States Postal Service.</p> <p>21 MR. RYAN: All right. I'm going to</p> <p>22 object to form and foundation. You're arguing</p>	<p>1 complaint. I read the complaint. I don't have</p> <p>2 enough visibility on the details within -- that</p> <p>3 encompass that complaint to properly weigh in</p> <p>4 on that.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q. Okay. So are you able to state</p> <p>7 whether or not the complaint accurately --</p> <p>8 accurately reflects what goes on in the digital</p> <p>9 advertising space?</p> <p>10 MR. RYAN: Objection to form and</p> <p>11 foundation.</p> <p>12 THE WITNESS: I'm not sure.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q. Okay. Other than lawyers for the</p> <p>15 postal service or the Department of Justice,</p> <p>16 have you discussed this lawsuit with anybody?</p> <p>17 MR. RYAN: Just to be clear, I</p> <p>18 will -- I want to instruct the witness. That</p> <p>19 does not include conversations you've had with</p> <p>20 counsel with other people, if there were other</p> <p>21 people in the room.</p> <p>22 THE WITNESS: With other people.</p>